

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
YVETTE GONZALEZ, as ADMINISTRATRIX :
OF THE ESTATE OF CENYA ESQUERETTE :
and YVETTE GONZALEZ, Individually, :

Plaintiffs, :

- against - :

AUREA ANDREA TANCUNGO DELEON, :
M.D., KAREN CHIU, M.D., RANDI BROWN, :
LLP, VIRGINIA FONSECA, LPN, THE UNITED :
STATES OF AMERICA, RYAN-NENA :
COMMUNITY HEALTH CENTER, and BETH :
ISRAEL MEDICAL CENTER :

Defendants. :
----- X

ANSWER

08 Civ. 4224

Judge Sweet

Defendant demands trial by jury

Defendant, BETH ISRAEL MEDICAL CENTER, by its attorneys, AARONSON RAPPAPORT FEINSTEIN & DEUTSCH, LLP, as and for its answer to plaintiffs' complaint, respectfully shows to this court and alleges upon information and belief:

AS AND FOR THE FIRST CAUSE OF ACTION

1. Denies the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraphs "1", "2", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41" and "42".

2. Denies the allegations contained in paragraphs "22" and respectfully begs leave to refer all questions of law to the court.

3. Denies the allegations contained in paragraphs "4", "49", "50", "51", "52", "53", "54", "55", "56", "57" and "58".

4. Denies the allegations contained in paragraphs "43", "44", and "45" except admits that said defendant is a Public Benefit Corporation duly licensed as a hospital and otherwise begs leave to refer all questions of law to the court.

5. Denies the allegations contained in paragraphs "46", "47" and "48" except admits that a live female child was born to YVETTE GONZALEZ on January 5, 2006 in the defendant BETH ISRAEL MEDICAL CENTER from which said child was discharged on January 7, 2006, readmitted on or about November 24, 2006 and died on the same date while still a patient therein and otherwise begs leave to refer all questions of law to the court.

AS AND FOR THE SECOND CAUSE OF ACTION

6. In response to paragraph "59", repeats each admission or denial contained in paragraphs "1" through "58" herein as though fully set forth hereat.

7. Denies the allegations contained in paragraphs "60", "61", "62", "63", "64" and "65".

AS AND FOR THE THIRD CAUSE OF ACTION

8. In response to paragraph "66", repeats each admission or denial contained in paragraphs "1" through "65" herein as though fully set forth hereat.

9. Denies the allegations contained in paragraphs "67", "68", "69", "70" and "71".

AS AND FOR THE FOURTH CAUSE OF ACTION

10. In response to paragraph "72", repeats each admission or denial contained in paragraphs "1" through "71" herein as though fully set forth hereat.

11. Denies the allegations contained in paragraphs "73", "74", "75", "76" and "77".

AS AND FOR THE FIFTH CAUSE OF ACTION

12. In response to paragraph "78", repeats each admission or denial contained in paragraphs "1" through "77" herein as though fully set forth hereat.

13. Denies the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "79".

14. Denies the allegations contained in paragraphs "80" and "81".

AS AND FOR THE FIRST AFFIRMATIVE DEFENSE

15. The court lacks subject matter jurisdiction over the defendant BETH ISRAEL MEDICAL CENTER's person pursuant to 28 USC 1332.

AS AND FOR THE SECOND AFFIRMATIVE DEFENSE

16. Plaintiff's second cause of action, if any, is barred pursuant to Public Health Law §2805-d.

AS AND FOR THE THIRD AFFIRMATIVE DEFENSE

19. Plaintiff's First, Second, Fourth and Fifth causes of action, if any, impermissibly contain an ad damnum clause in contravention of CPLR §3017(c).

AS AND FOR THE FOURTH AFFIRMATIVE DEFENSE

20. The liability, if any, of the defendant BETH ISRAEL MEDICAL CENTER is limited pursuant to CPLR 1600 et. seq.

AS AND FOR THE FIFTH AFFIRMATIVE DEFENSE

21. That the injuries claimed by plaintiffs in the complaint were cause in whole or in part, by the culpable conduct of the plaintiff YVETTE GONZALEZ which either bars the claims completely or else diminishes the damages by the proportion that such culpable conduct of the plaintiff YVETTE GONZALEZ bears to the total culpable conduct causing the injuries.

WHEREFORE, defendant, BETH ISRAEL MEDICAL CENTER, demands judgment dismissing the Complaint, together with the costs and disbursements of the within action.

Dated: New York, New York
May 27, 2003

Yours, etc.,



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To:

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SOUTHERN DISTRICT OF NEW YORK

YVETTE GONZALEZ, as ADMINISTRATRIX
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AUREA ANDREA TANCUNCO DELEON,
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STATES OF AMERICA, RYAN-NENA
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ISRAEL MEDICAL CENTER

Defendants

**DISCLOSURE STATEMENT
PURSUANT TO RULE 7.1 OF THE
GENERAL RULES OF THE
SOUTHERN DISTRICT**

Case Number: 08 Civ. 4224

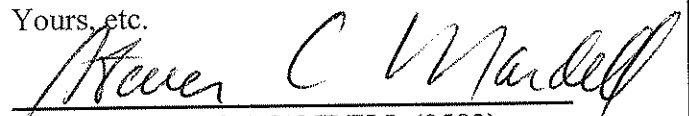
Defendant Demand Trial By Jury

SIR/MADAM:

Pursuant to Rule 7.1 of the local rules of the U.S. District Court for the Southern and Eastern Districts of New York and to enable judges and magistrate judges of the court to evaluate possible disqualification or recusal, the undersigned counsel for BETH ISRAEL MEDICAL CENTER, (a private non-governmental party) certifies that there are no corporate parents, subsidiaries, or affiliates of said party which are publicly held.

Dated: New York, New York
May 27, 2003

Yours, etc.



BY: STEVEN C. MANDELL (0583)
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DEUTSCH, LLP
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SS.:

27th day of May, 2008

Steven C. Mandell

Notary Public

STEVEN C. MANDELL
Notary Public, State of New York
No. 02MA7691635
Qualified in Rockland County
Commission Expires Nov. 30, 2010